

UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF CALIFORNIA

MICHAEL E. JACQUES,

Plaintiff,

v.

JUNG, et al.,

Defendants.

No. 2:24-cv-0477 TLN SCR P

ORDER

Plaintiff is a state prisoner proceeding pro se with a civil rights action under 42 U.S.C. §1983. On screening plaintiff's complaint, the court found plaintiff stated potentially cognizable Eighth Amendment and First Amendment claims against defendant Jung and potentially cognizable Fourteenth Amendment claims against all defendants. (June 25, 2024 Order, ECF No. 6.) Plaintiff was given the option of proceeding immediately on the claims found potentially cognizable or amending the complaint. The court provided plaintiff with a form to return within thirty days to notify the court of their choice. Plaintiff was warned that failure to comply with the court's order would result in a recommendation that this action be dismissed. When the court did not receive a timely notice, on August 26, the court recommended this case be dismissed for plaintiff's failure to prosecute and comply with court orders. (ECF No. 10.)

Plaintiff has filed objections to the August 26 findings and recommendations. (ECF No. 11.) Plaintiff states that they prepared the notice form and gave it to prison staff for mailing prior

1 to the deadline. Plaintiff does not know why the court did not receive the notice. Plaintiff  
2 provides a copy of a new notice indicating that they wish to proceed with the claims found  
3 cognizable in the original complaint. (*Id.* at 5.)

4 Plaintiff has shown good cause to proceed with this action. The court will vacate its  
5 recommendation that the case be dismissed. However, plaintiff did not sign the notice form. The  
6 court will provide plaintiff with another copy of the form to sign and file. After receipt of the  
7 signed form, the court will order service of the complaint.

8 Accordingly, IT IS HEREBY ORDERED that

- 9 1. The findings and recommendations filed August 26, 2024 (ECF No. 10) are vacated.  
10 2. Within twenty-one days of the date of this order, plaintiff shall file a **signed** and  
11 completed copy of the attached form indicating how they wish to proceed with this  
12 case.

13 DATED: October 2, 2024



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15 SEAN C. RIORDAN  
16 UNITED STATES MAGISTRATE JUDGE  
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PLAINTIFF'S NOTICE ON HOW TO  
PROCEED

Check one:

Plaintiff wants to proceed immediately on the Eighth and First Amendment claims in the complaint against defendant Jung and on the Fourteenth Amendment claim against all defendants. Plaintiff understands that by going forward without amending the complaint, they are voluntarily dismissing all other claims.

Plaintiff wants to amend the complaint.

DATED: \_\_\_\_\_

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Plaintiff Michael E. Jacques, Pro Se